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**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA**

DIANA HOLMES,

Plaintiff,

vs.

BELLAGIO, LLC, a Nevada limited liability
 company; MGM RESORTS
 INTERNATIONAL, a foreign corporation; *et*
al.,

Defendants.

Case No.: 2:20-cv-576-RFB-BNW

**STIPULATION AND ORDER TO
 TEMPORARILY STAY ALL
 PROCEEDINGS EXCEPT FOR AUGUST 4,
 2020 EARLY NEUTRAL EVALUATION
 CONFERENCE**

(First Request)

Plaintiff Diana Holmes (“Plaintiff”) and Defendants Bellagio, LLC (“Bellagio”) and MGM Resorts International (“MGMRI”) (collectively, “Defendants”), by and through their counsel of record, jointly request that this action be stayed in its entirety – except for the presently-scheduled Early Neutral Evaluation conference (“ENE”) – for forty eight (48) days, until August 5, 2020, which is one day after the ENE scheduled for August 4, 2020. This Stipulation is submitted and based upon ongoing public health and safety issues caused by COVID-19, which are stated more specifically below.

I. STATEMENT OF FACTS

A. Procedural History of This Case.

Plaintiff’s Complaint was filed on March 6, 2020 and served on Defendants on March 17, 2020. Bellagio removed this case to Federal Court on March 23, 2020. (ECF No. 1). A Scheduling

Order was established on April 29, 2020. (ECF No. 19). Defendants submitted early dispositive motions on May 1, 2020. (ECF Nos. 21, 22). Plaintiff subsequently filed a First Amended Complaint on May 22, 2020. (ECF No. 30). Defendants' deadline to answer or otherwise respond to Plaintiff's First Amended Complaint is currently set for June 19, 2020. (ECF No. 34).

B. State-Wide and National Events Supporting Temporary Stay

On March 11, 2020, the World Health Organization ("WHO") publicly characterized the Coronavirus (COVID-19) as a pandemic. <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>. On March 12, 2020, Governor Steve Sisolak issued a Declaration of Emergency for the State of Nevada. *See* http://gov.nv.gov/uploadedFiles/govnewnv.gov/Content/News/Press/2020/Declaration%20of%20_Emergency%20re%20COVID.pdf.

On March 18, 2020, Governor Sisolak ordered all gaming establishments, including Bellagio, to close until at least April 16, 2020. *See* COVID-19 Declaration of Emergency Directive 002, http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-18_-_COVID-19_Declaration_of_Emergency_Directive_002/.

Governor Sisolak's order was extended several times until May 9, 2020, when Governor Sisolak approved Phase One of the Nevada United: Roadmap to Recovery Plan. [http://gov.nv.gov/News/Emergency_Orders/2020/2020-05-07_-_COVID-19_Declaration_of_Emergency_Directive_018_-_Phase_One_Reopening_\(Attachments\)/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-05-07_-_COVID-19_Declaration_of_Emergency_Directive_018_-_Phase_One_Reopening_(Attachments)/)

On May 22, 2020, Plaintiff filed an Amended Complaint (ECF No. 30).

On May 29, 2020, the State of Nevada entered Phase Two of the Nevada United: Roadmap to Recover Plan, allowing Defendants to resume limited operations of their respective properties on June 4, 2020. [http://gov.nv.gov/News/Emergency_Orders/2020/2020-05-28_-_COVID-19_Declaration_of_Emergency_Directive_021_-_Phase_Two_Reopening_Plan_\(Attachments\)/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-05-28_-_COVID-19_Declaration_of_Emergency_Directive_021_-_Phase_Two_Reopening_Plan_(Attachments)/).

On June 1, 2020, this Court entered its Order granting the Parties' stipulation to extend the time for Defendants to file their responsive pleadings until June 19, 2020. (ECF No. 34).

On June 15, 2020, Governor Sisolak announced during a press conference that, due to an

upward trend in new COVID-19 cases, there is no timeline for advancing into Phase Three and further lifting of existing restrictions. <https://lasvegassun.com/news/2020/jun/15/sisolak-extends-phase-2-protocols-study-virus-data/>.

The Parties have exchanged Initial Disclosures. However, the Parties have been, and are currently unable to, otherwise participate meaningfully in discovery. Although Bellagio has begun a limited resumption of operations, it continues to operate at a reduced capacity in order to monitor, preempt, and navigate ongoing health and safety issue caused by COVID-19. Further, this has caused key personnel to be unavailable to participate in this matter due to urgent issues caused by COVID-19 and efforts to resume operations in a safe manner.

II. LEGAL STANDARD

“District courts have discretion to stay the proceedings before them in light of their inherent power to control their own dockets and promote judicial economy.” *Robben v. Carson City*, No. 3:13-cv-0438-RFB-VPC, 2016 U.S. Dist. LEXIS 52197, at *2-3 (D. Nev. Apr. 19, 2016) citing *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005); *Landis v. North Am. Co.*, 299 U.S. 248, 255 (1936). Although stays are disfavored, a stay may be granted when the request is for a limited duration, with a defined end point, and the risk of harm to another party is absent. *Dependable Highway Express, Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066 (9th Cir. 2007). This is a joint stipulation by the parties and, therefore, no prejudice to any party will result from the granting of the stay requested.

Navigating the COVID-10 local, national, and global public health emergency has imposed a massive drain upon Bellagio and MGMRI’s resources. This unprecedented disruption in Bellagio and MGMRI’s business, and the unavailability of witnesses and documents due to the recent temporary closure and current limited operations of both entities will significantly infringe on their ability to “meaningfully participate in the discovery process,” which is grounds to stay proceedings. *Sears v. Russell Rd. Food & Bev.*, No. 2:19-cv-01091-APG-NJK, 2020 U.S. Dist. LEXIS 44385, at *4 (D. Nev. Mar. 13, 2020); *Parkway Gallery Furniture, Inc. v. Kittinger/Pennsylvania House Group, Inc.*, 116 F.R.D. 363, 365-66 (M.D.N.C. 1987) (“Good cause” shown when there are “extenuating circumstances.”); *Johnson v. Mammoth Recreations*, 975 F.2d 604, 610 (9th Cir. 1992).

1 **III. STIPULATION AND REQUESTED ORDER**

2 The undersigned counsel certify and represent that this request for a stay is submitted in good
3 faith and is not intended to cause unnecessary burden or delay. This is the first request for a stay of
4 proceedings. For good cause shown, the Parties jointly request this Court to:

5 1. Stay discovery and, except for the August 4, 2020 ENE, stay all proceedings in this case
6 for a period of forty eight (48) days, until August 5, 2020, which is one day after the ENE. This
7 temporary stay will allow the parties to preserve resources and meaningfully participate in the ENE on
8 August 4, 2020. Should circumstances change such that a shorter or a longer stay is appropriate, the
9 parties will immediately and jointly notify the Court.

10 2. If the matter is not resolved before or at the August 4, 2020 ENE, on August 5, 2020
11 the Parties will submit a joint status report to the Court with proposed revised discovery and scheduling
12 deadlines in the case.

13 3. If the matter is not resolved before or at the August 4, 2020 ENE, Defendants'
14 responsive pleadings will be due 14 days after the stay is lifted (*i.e.*, if the stay is lifted on August 5,
15 2020, Defendants' responsive pleadings will be due on August 19, 2020).

16 4. Should an additional stay be necessary because of exigent circumstances relating to

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COVID-19, the Parties will submit a status report explaining the circumstances and any additional time need for stay of this action.

Dated: June 18, 2020

JONES LOVELOCK

BELLAGIO, LLC

By: /s/Nicole Lovelock

By: /s/Kelly Kichline

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ORDER

IT IS SO ORDERED:



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE

DATED this 22nd day of June, 2020.